

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO. _____**

JASON PROSSER,

Plaintiff,

v.

**STATE FARM FIRE AND CASUALTY
COMPANY,**

Defendant.

NOTICE OF REMOVAL

NOW COMES the Defendant, State Farm Fire and Casualty Company (hereinafter “State Farm”), by and through its undersigned attorneys of record and pursuant to the provisions of 28 U.S.C. §§ 1332 and 1446, and hereby provides its Notice of Removal to this Court from the General Court of Justice, Superior Court of Johnston County, North Carolina based on diversity of citizenship and amount in controversy. In support of such removal, State Farm respectfully states the following:

1. On April 28, 2020, the plaintiffs commenced a proceeding against State Farm Fire and Casualty Company by filing of a Civil Summons and Complaint, styled *Jason Prosser v. State Farm Fire and Casualty Company*, Case No. 20 CvS 1396, which proceeding is currently pending. A copy of the entire contents of the Johnston County file is attached hereto as Exhibit 1.

2. State Farm was served with a copy of the complaint setting forth the plaintiff's claims upon which this action is based when it was served through the North Carolina Department of Insurance on May 6, 2020.

3. This case is a civil action within the meaning of the Acts of Congress relating to the removal of causes. State Farm has not filed any pleadings or papers in this action in State

Court and the time during which State Farm is required by state law or rules of court to answer or to plead to the plaintiff's complaint has not expired. No other process, pleading or order has been served on State Farm.

4. This civil action arises out of claims by the plaintiff for breach of contract and unfair and deceptive trade practices. The complaint seeks compensatory damages, treble damages, attorney's fees and costs.

5. This action is removable because there is diversity of citizenship and the requisite amount in controversy as required by 28 U.S.C. §1332. Plaintiff, according to the complaint, is a citizen and resident of Johnston County, North Carolina. State Farm is a foreign corporation organized and existing under the laws of the State of Illinois, and has its principal place of business in Bloomington, Illinois. Accordingly, complete diversity exists between these parties in this case.

6. The United States District Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332, because there is a diversity of citizenship among the necessary and properly named parties and, upon information and belief, the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00. This action is therefore removable to this Court pursuant to 28 U.S.C. §1441(b).

7. This Notice of Removal is timely filed pursuant to 28 U.S.C. §1446(b) and Rule 81 of the Federal Rules of Civil Procedure because it is filed within thirty (30) days after service on State Farm, of a copy of the initial pleading setting forth the claim for relief upon which this action or proceeding is based.

8. By filing this Notice of Removal, State Farm does not waive any of its objections to personal jurisdiction, service, or other affirmative defenses.

9. Pursuant to 28 U.S.C. §1446(d), State Farm will file a Notice of Filing this Notice of Removal, with a copy of this Notice of Removal, with the State Court and thereby will notify the Clerk of the General Court of Justice, Superior Court Division, Johnston County, North Carolina of the removal.

10. A copy of the Notice of Filing of Notice of Removal to be filed in the General Court of Justice, Superior Court Division, is attached hereto as Exhibit 2. State Farm has served a copy of the Notice of Removal on the plaintiff in accordance with 28 U.S.C. §1446(d).

WHEREFORE, this action is hereby removed to this Court from the General Court of Justice, Superior Court Division, Johnston County, North Carolina.

This the 5th day of June, 2020.

/s/ SCOTT LEWIS
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CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2020 I electronically filed the foregoing with the Clerk of Court using the CM/ECF system and I have mailed the document to the following:

L. Lamar Armstrong, III
The Armstrong Law Firm, PLLC
P.O. Box 27
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Counsel for Plaintiff

Respectfully submitted,

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